

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

GOVERNMENT OF GUAM)	CASE NO. 1:13-cv-1165
RETIREMENT FUND,)	
on behalf of itself and all others similarly)	JUDGE CHRISTOPHER A. BOYKO
situated,)	
)	
Plaintiff,)	
)	
v.)	
)	DEFENDANTS' REPLY IN SUPPORT
INVACARE CORPORATION, <i>et al.</i> ,)	OF MOTION FOR EXTENSION OF
)	TIME TO ANSWER LEAD
Defendants.)	PLAINTIFF'S AMENDED COMPLAINT

Defendants, Invacare Corporation, Gerald B. Blouch, and A. Malachi Mixon, III (collectively, "Defendants"), by and through their undersigned counsel, hereby submit this Reply in support of their *Motion for Extension of Time to Answer Lead Plaintiff's Amended Complaint* (the "Motion").

Plaintiff, the Government of Guam Retirement Fund's ("Lead Plaintiff") is correct that the parties had discussions regarding Defendants' requested extension of time to answer Lead Plaintiff's Amended Complaint for Violation of Federal Securities Laws (the "Amended Complaint"). Invacare's counsel called counsel for Lead Plaintiff on Thursday, August 21, 2014 and requested an extension of time to answer the Amended Complaint. Counsel for Lead Plaintiff then indicated that they would consider our request and that they would be sending a letter shortly. Later that evening, Invacare's counsel received a letter and email from Lead Plaintiff's counsel, but neither communication confirmed whether Lead Plaintiff would agree to an extension of time. On Monday, August 25, 2014, Invacare's counsel again asked Lead

Plaintiff's counsel to agree to an extension, this time by the end of the day. When Monday passed without a response, Invacare's counsel filed the Motion on Tuesday, August 26, 2014, one week in advance of Defendants' current September 2, 2014 deadline to answer.

Defendants remain firm in asking for an additional 30 days to answer the Amended Complaint. Contrary to Lead Plaintiff's assertion, such an extension is neither unsupported nor excessive. The Amended Complaint is simply not the length of a normal complaint. As set forth in the Motion, it contains 306, multi-sentence paragraphs and is 132 pages long. It is taking counsel significant time to draft appropriate answers to the facts and legal conclusions presented in those allegations. It will take nearly as long for client review. For example, many of the allegations contain unattributed citations to authorities or communications which are requiring substantial work to confirm their accuracy. It may be, as Lead Plaintiff claims, that their Amended Complaint is not as large as those drafted by their peers, but it is abnormal in cases outside their industry and not likely what was contemplated under the Federal Rules with respect to deadlines for answering after a motion to dismiss is denied.

Lastly, on the new and separate point regarding a case management conference, Defendants note that while they have no objection to the Court setting a Case Management Conference, they do suggest that the Court wait to set it until after Defendants have filed their answers as is typically the practice, so that both sides know what is at issue with regard to allegations, denials and affirmative defenses. Defendants believe a conference at the end of October would be more appropriate to allow for the answers to be filed, for the parties to hold the Rule 26(f) planning conference and subsequently provide a written report to the Court.

For the foregoing reasons, Defendants respectfully request that the Court grant the extension of time sought in this Motion and enter an Order, in the form of Exhibit A to the

Motion.

Respectfully Submitted,

/s/ Fritz E. Berckmueller

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on August 27, 2014.
Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Fritz E. Berckmueller

One of the Attorneys for Defendants, Invacare
Corporation, Gerald B. Blouch, and A. Malachi
Mixon, III